

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT TURNER,

Plaintiff,

vs.

NICHOLAS HOGAN, JOHN DOE, DAVID
HAYNES, and CITY OF TUKWILA.,

Defendants.

No. 2:14-cv-00675

DEFENDANT HOGAN'S
ANSWER, AFFIRMATIVE
DEFENSES AND JURY DEMAND

I.

By way of answer to plaintiff's complaint, Defendant Hogan admits, denies and alleges as follows:

Answering paragraph 1, this defendant admits that plaintiff is African American. This defendant lacks sufficient information to form a belief as to the truth or falsity of the other allegations and therefore denies the same.

Answering paragraph 2, this defendant admits the same.

Answering paragraph 3, this defendant admits the same insofar as these allegations relate to him.

DEFENDANT HOGAN'S ANSWER,
AFFIRMATIVE DEFENSES AND JURY
DEMAND - 1

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1 Answering paragraph 4, this defendant lacks sufficient information to form a belief
2 as to the truth or falsity of the other allegations and therefore denies the same.

3 Answering paragraph 5, this defendant admits the same.

4 Answering paragraph 6, this defendant denies the same.

5 Answering paragraphs 7 and 8 [1st paragraph with this number], this defendant
6 admits the same. This matter was removed to federal court based on federal question
7 jurisdiction.

8 Answering paragraph 9 [1st paragraph with this number], this defendant lacks
9 sufficient information to form a belief as to the truth or falsity of the other allegations and
10 therefore denies the same.

11 Answering paragraph 8 [sic, 2nd paragraph with this number], this defendant
12 admits that he was acting within the scope and authority of his employment with the
13 Tukwila Police Department and under color of law.

14 Answering paragraph 9 [sic, 2nd paragraph with this number], this defendant lacks
15 sufficient information to form a belief as to the truth or falsity of the other allegations and
16 therefore denies the same.

17 Answering paragraphs 10, 11 and 12, this defendant admits that on or about the
18 date and time alleged, he and other Tukwila police officers were dispatched to the area
19 of a residence located at 13305 Macadam Rd. S. to respond to multiple 911 callers'
20 reports of up twenty gun fire shots, that one or more neighbors identified the residence
21 located at 13305 Macadam Rd. S., as the source of the gun fire, that there were
22 approximately fifteen to twenty adults present in the back yard of this residence. The
23 other allegations are denied.

24 Answering paragraphs 13, 14, 15, 16 and 17, this defendant denies the same.
25



1 Answering paragraphs 18, 19, 20 and 21, this defendant admits that when officers
2 encountered and attempted to separate an unruly individual, plaintiff attempted to
3 approach the officer who was dealing with the unruly individual and failed to comply with
4 this defendant's directions to step away. This defendant further admits that plaintiff then
5 became aggressive, failed to comply with this defendant's attempt to escort plaintiff
6 away, and physically assaulted this defendant. This defendant further admits that he fell
7 to the ground during the assault from plaintiff. This defendant further admits that other
8 officers who came to his assistance used pepper spray and a Taser on plaintiff. The
9 other allegations are denied.

10 Answering paragraphs 22, 23 and 24, this defendant admits that he transported
11 plaintiff and another offender to the King County Jail, that a jail nurse refused booking
12 because plaintiff had started complaining of ankle pain, and that this defendant then
13 transported plaintiff to Harborview for medical care. The other allegations are denied.

14 Answering paragraph 25, this defendant denies the same.

15 Answering paragraph 26, this defendant admits that plaintiff was charged with
16 crimes of obstructing and assault against a police officer in Tukwila Municipal Court.
17 This defendant lacks sufficient information to form a belief as to the truth or falsity of the
18 other allegations and therefore denies the same.

19 Answering paragraph 27, this defendant denies the same.

20 Answering paragraph 28, this defendant admits that he was acting in the course
21 and scope of his employment with the City of Tukwila's police department.

22 Answering paragraphs 29 and 30, this defendant lacks sufficient information to
23 form a belief as to the truth or falsity of these allegations and therefore denies the same.

24 Answering paragraph 31, this defendant realleges his answer to the preceding
25 paragraphs.



1 Answering paragraphs 32, 33 and 34, this defendant denies the same.

2 Answering paragraph 35, this defendant realleges his answer to the preceding
3 paragraphs.

4 Answering paragraphs 36, 37 and 38, this defendant denies the same insofar as
5 these allegations relate to him.

6 Answering paragraphs 39, this defendant realleges his answer to the preceding
7 paragraphs.

8 Answering paragraphs 40, 41 and 42, this defendant denies the same insofar as
9 these allegations relate to him.

10 Answering paragraph 43, this defendant realleges his answer to the preceding
11 paragraphs.

12 Answering paragraph 44, this defendant admits that he was acting in the scope
13 of his employment. This defendant denies the other allegations insofar as they relate
14 to him.

15 Answering paragraph 45, this defendant realleges his answer to the preceding
16 paragraphs.

17 Answering paragraph 46, this defendant denies the same insofar as these
18 allegations relate to him.

19 II.

20 For further answer and by way of affirmative defenses, Defendant Hogan alleges
21 as follows:

- 22 1. One or more of plaintiff's claims is barred by the applicable statute of
23 limitations.
- 24 2. This defendant is entitled to qualified and/or absolute immunity.
- 25 4. The conduct of which plaintiff complains was privileged.



6. Plaintiff has failed to mitigate damages.

6. Plaintiff has failed to mitigate damages.

III.

Wherefore, having fully answered plaintiff's complaint, this defendant prays that the same be dismissed with prejudice, that he recover his costs and attorney's fees, and that he recover such other and further relief as the court deems appropriate.

Dated: May 6, 2014.

TURNER KUGLER LAW, PLLC

By: s/ John T. Kugler
John T. Kugler, WSBA # 19960
Attorney for Defendant Hogan

DEMAND FOR JURY

The defendant hereby demands that trial in this matter be to a jury.

Dated: May 6, 2014.

TURNER KUGLER LAW, PLLC

By: s/ John T. Kugler
John T. Kugler, WSBA # 19960
Attorney for Defendant Hogan



CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

none

s/ John T. Kugler

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